

Hospital; additional classification. A hospital described in section 170(b)(1)(A)(iii) of the Code is not prevented by section 1.170A-9(e)(1) of the regulations from qualifying as a public supported organization under section 170(b)(1)(A)(vi) if it desires that additional classification.

Advice has been requested whether an organization described in section 170(b)(1)(A)(iii) of the Internal Revenue Code of 1954 also qualifies as an organization described in section 170(b)(1)(A)(vi) of the Code under the circumstances described below.

The organization in question is a hospital described in section 170(b)(1)(A)(iii) of the Code. It has established that it meets the public support requirements of section 170(b)(1)(A)(vi) and has specifically requested to be classified as an organization so described.

Section 1.170A-9(e)(1) of the Income Tax Regulations states that an organization is described in section 170(b)(1)(A)(vi) of the Code if it is '(i) A corporation, trust, or community chest, fund, or foundation, referred to in section 170(c)(2) (other than an organization specifically described in paragraphs (a) through (d) of this section), and (ii) A 'publicly supported' organization'. Paragraphs (a) through (d) of the cited regulation include organizations described in section 170(b)(1)(A)(iii) of the Code.

The underlying question is whether the reference in section 1.170A-9(e)(1) of the regulations to paragraphs (a) through (d) is intended to prevent an organization described in section 170(b)(1)(A)(iii) of the Code from also being described in section 170(b)(1)(A)(vi) if it desires that additional classification. There is nothing in the legislative history of section 170(b)(1)(A) to suggest such an intent. Section 1.170A-9(e)(1) of the regulations should not be interpreted as precluding an organization's classification under section 170(b)(1)(A)(vi) of the Code merely because it could also be classified under section 170(b)(1)(A)(iii). Classification of an organization under subdivision (vi) may serve its legitimate needs in particular situations (such as clarifying the status of purchased employee retirement and survivor annuities in relation to section 2039(c)(3)).

Accordingly, the organization also qualifies as an organization described in section 170(b)(1)(A)(vi) of the Code.